

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NEW HEIGHTS FARM I, LLC,
a Michigan limited liability company;
STACY BOERSEN; NEW HEIGHTS
FARM II, LLC, a Michigan limited
liability company; and
NICHOLAS BOERSEN,

Plaintiffs,

v.

GREAT AMERICAN INSURANCE
COMPANY; FEDERAL CROP INSURANCE
CORPORATION; and UNITED STATES
DEPARTMENT OF AGRICULTURE,

Defendants.

Case No. 1:23-cv-663

Hon. Hala Y. Jarbou
Chief U.S. District Court Judge

Hon. Phillip J. Green
U.S. Magistrate Judge

**DEFENDANTS U.S. DEPARTMENT OF AGRICULTURE AND
FEDERAL CROP INSURANCE CORPORATION'S MOTION TO DISMISS**

Defendants U.S. Department of Agriculture and Federal Crop Insurance Corporation (collectively, the Federal Defendants) move the Court to dismiss Plaintiffs' Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction, or pursuant to Rule 12(b)(6) because Plaintiffs fail to state any claim upon which relief can be granted. Alternatively, the Federal Defendants move the Court for summary judgment pursuant to Rule 56(c). This motion is supported by the accompanying memorandum.

In accordance with Local Civil Rule 7.1(d), undersigned counsel contacted counsel for Plaintiffs to explain the nature of the motion on August 25, 2023. Plaintiffs' counsel advised that they intend to oppose this motion.

WHEREFORE, for the reasons stated in the accompanying memorandum, the Court should dismiss Plaintiffs' claims under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), or 56(a).

Respectfully submitted,

MARK A. TOTTEN
United States Attorney

Dated: August 28, 2023

/s/ Laura A. Babinsky
LAURA A. BABINSKY (P85670)
Assistant United States Attorney
P.O. Box 208
Grand Rapids, MI 49501-0208
(616) 456-2404
Laura.Babinsky@usdoj.gov